

HIGH PEAK BOROUGH COUNCIL

Council

25 October 2023

TITLE:	Developer Contributions SPD
EXECUTIVE COUNCILLOR:	Councillor Godfrey Claff - Executive Councillor for Community Safety and Planning
CONTACT OFFICER:	Ruth Wooddisse - Planning Officer
WARDS INVOLVED:	All wards outside of the Peak District National Park

Appendices Attached –

Appendix 1 - Updated Developer Contributions Supplementary Planning Document (SPD)

Appendix 2 - Consultation Statement

Appendix 3 – Schedule of modifications to the Developer Contributions SPD

1. Reason for the Report

- 1.1 To notify Councillors of the responses received to the public consultation on the draft Developer Contributions Supplementary Planning Document (SPD). The report and appendices also provide details of suggested responses from the Council to consultation feedback as well as suggested modifications to be made to the SPD.

2. Recommendation

- 2.1 That Councillors note the feedback to the public consultation, suggested Council responses and modifications to the SPD.
- 2.2 That Council adopts the Developer Contributions SPD.

3. Executive Summary

- 3.1 A draft Developer Contributions Supplementary Planning Document (SPD) was subject to public consultation between 19th January and 3rd March 2023. A total of 72 comments were received from 13 consultees and individuals with

an additional late response received from Network Rail. Issues raised included suggestions that further clarification should be included on First Homes, Vacant Building Credit, open space cost calculations, greenways, public transport and other sustainable transport modes. Officers have recommended responses to the consultation feedback and modifications to the document where appropriate.

3.2 The Developer Contributions SPD sets out details regarding the Council's approach to planning obligations and the types of contributions that will be required. A full copy of the SPD is attached as Appendix 1.

3.3 If adopted, the document will become a material consideration to relevant planning applications and used in the negotiation of financial contributions.

4. How this report links to Corporate Priorities

4.1 The Developer Contributions SPD links to the following corporate key priorities:

- Aim 1: Supporting our communities to create a healthier, safer, cleaner High Peak. Key objectives include fit for purpose housing that meets the need of tenants and residents; and provision of high quality leisure facilities both in formal leisure centres and swimming pools and out in our communities.
- Aim 2: A responsive, smart, financially resilient and forward-thinking council. A key objective is ensuring our future financial resilience can be financially sustainable whilst offering value for money.
- Aim 3: To protect and create jobs by supporting economic growth, development and regeneration. It states that in order to meet these objectives we will 'review the implementation of the Local Plan to ensure that the requirements for affordable housing and developer contributions are being met'.
- Aim 4: Protect and improve the environment including responding to the climate emergency. Key objectives include effective provision of quality parks and open spaces; and meeting the challenge of climate change and working meeting the challenges of climate change.

5. Alternative Options

5.1 Council is requested to approve the Developer Contributions SPD. The Developer Contributions SPD sets out what will be required to mitigate or manage the impact of new developments and the financial contributions provided by developers to pay for infrastructure to meet the needs of their development (Recommended).

5.2 Members decide not to approve the Developer Contributions SPD. The information and guidance within the document will not be available (Not Recommended).

6. Implications

6.1 Community Safety - (Crime and Disorder Act 1998)

No direct implications.

6.2 Workforce

Officer time allocated towards the preparation and publication of the SPD.

6.3 Equality and Diversity/Equality Impact Assessment

An Equalities Impact Assessment has been completed for this project.

6.4 Financial Considerations

The SPD will provide the Council with a stronger basis to seek developer contributions. The Council is required to annually publish an Infrastructure Funding Statement (IFS) which sets out annual income and expenditure relating to developer contributions in High Peak secured through S106 agreements. The 2021/22 statement can be found as follows:

https://www.highpeak.gov.uk/media/7687/High-Peak-Infrastructure-Funding-Statement-2021-22/pdf/High_Peak_Infrastructure_Funding_Statement_2021-22.pdf?m=1669734588967

6.5 Legal

Section 106 of the Town & Country Planning Act 1990 provides that a local planning authority may enter into an agreement with any person interested in land in their area for the purpose of restricting or regulating the development or use of the land. From a practical point of view, the provision allows for the payment of monetary contributions and other measures to offset the impact of proposed developments. The proposed SPD set out in this report can give more certainty and consistency to the process of calculating developer contributions in the interests of those involved in development planning. Any adopted SPD will not form part of the Local Plan in itself, but it will be a material consideration when deciding planning applications.

The Planning and Compulsory Purchase Act 2004 makes provision for the preparation of Supplementary Planning Documents. Regulations 11 to 16 of the Town and Country Planning (Local Planning) (England) Regulations 2012 set out the procedural requirements for their preparation and adoption and should be followed.

6.6 Climate Change

Policy EQ1 of the High Peak Local Plan sets out the Council's

overarching approach for mitigating and adapting to climate change. The SPD also provides guidance on how climate change can be addressed by developments.

6.7 Consultation

The SPD has been subject to public consultation. Details are provided in Appendix 2.

6.8 Risk Assessment

The full extent of the existing S106 contribution regime is proposed to be withdrawn by Government as the Planning White Paper proposed to abolish the current method of securing contributions and replacing it with an “Infrastructure Levy”. However, planning reforms at a national level are likely to take several years and in the meantime, Government has made it clear that LPAs should not pause plan making. The SPD will reflect the adopted Local Plan.

The SPD will provide the Council with a stronger basis to seek developer contributions and will provide officers, councillors and developers with clear guidance.

Neil W. Rodgers
Executive Director (Place)

Web Links and Background Papers

As attached to the report

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7. **Detail**

- 7.1 Supplementary Planning Documents (SPDs) can be prepared by local planning authorities to provide guidance to developers, land owners, planning agents and the Council on specific planning policies. SPDs are capable of being material considerations in the determination of planning applications but they do not form part of the statutory development plan. As such, they cannot be used to introduce new policies. Outside of the Peak District National Park, the statutory development plan in High Peak consists of the adopted High Peak Local Plan (2016), the Chapel-en-le-Frith Neighbourhood Plan (2015) and the minerals and waste plans prepared by Derbyshire County Council.
- 7.2 The Town and Country Planning (Local Planning) (England) Regulations 2012 set out the requirements for the preparation of SPDs. The National Planning Policy Framework and associated guidance acknowledge the role of SPDs in providing further guidance for local policies. Regulation 8 (3) states that; “Any policies contained in a supplementary planning document must not conflict

with the adopted development plan". It is also made clear in the national planning practice guidance that SPDs should not add unnecessarily to the financial burdens on development.

Purpose and scope of the Supplementary Planning Document

- 7.3 HPBC adopted the Local Plan in April 2016. The Local Plan sets out the Spatial Strategy, development requirements, site allocations and development management policies for the period 2011 to 2031. The plan proposes 7,000 new homes and 45ha of employment land over the plan period focussed around the market towns.
- 7.4 Policy CF7 in the adopted High Peak Local Plan identifies the need for a Developer Contributions SPD to provide guidance for affordable housing, open space, education, health and other forms of infrastructure required to address the impact of development and how contributions will be calculated. The SPD will provide the Council with a stronger basis to seek developer contributions and will provide officers, councillors and developers with clear guidance.
- 7.5 The SPD sets out the background in terms of legislation, national and local planning policy. It provides details of the Council's approach to developer contributions such as:
- trigger points for payments;
 - how contributions will be index linked over time;
 - viability issues;
 - monitoring fees; and
 - prioritisation of contributions.
- 7.6 The SPD introduces a new requirement which will enable the Council to request a monitoring fee for planning obligations included in the Section 106 agreement. This is a approach enabled by the [Community Infrastructure Levy \(Amendment\) \(England\) \(No.2\) Regulations 2019](#) which allows fees to be sought from developers where: the sum to be paid fairly and reasonably relates in scale and kind to the development; and the sum to be paid must not exceed the authority's estimate of its cost of monitoring the development over the lifetime of the planning obligations which relate to the development.
- 7.7 The SPD also provides guidance for key areas of infrastructure that will be affected by most major schemes such as:
- Affordable housing – covering first homes, calculating commuted sums, dwelling space standards, vacant building credit and rural exception sites.
 - Open space, sport and recreation – sets out the requirements for different types of open space and outdoor and indoor sports facilities.
 - Biodiversity and Green Infrastructure
 - Air Quality
 - Health
 - Training and Employment
 - Transport Infrastructure including sustainable travel
 - Education

- Climate Change – including water quality and efficiency, electric vehicle charging, flood protection, decentralised energy networks and sustainable design and construction.
- Retail and Town Centres

Consultation on Issues and Options

7.8 The Council appointed Capita to assist with the preparation of a draft Developer Contributions SPD. As part of the initial work undertaken, stakeholder engagement was carried out with key service areas across the Council including Development Management, Legal, Regeneration, Service Commissioning and Derbyshire County Council. This led to a first stage consultation where a number of issues and options were identified for consideration and inclusion within the SPD and a consultation event was undertaken between 24th February and 7th April 2022. A summary of the responses received and how these were taken into account in the draft SPD can be seen in Appendix 2.

Consultation on Draft Developer Contributions SPD

7.9 Following consideration by the Economy and Growth Select Committee in November 2022 and the Executive in December 2022 a public consultation was held on the draft SPD for a six week period between the 19th January and the 3rd March 2023. The consultation included direct consultation with the consultation bodies listed in the Regulations, those who have participated in the earlier stages of the SPD preparation and other residents and businesses on the Council's planning policy consultation database. A press release and social media were also used to raise awareness of the consultation. Details were published on the Council's website and hard copies made available at Council Offices and libraries.

7.10 Strategic Environmental Assessment (SEA) and Habitat Regulations Assessment (HRA) screening statements were also included as part of the consultation on the draft SPD. The Council had previously consulted with Natural England, the Environment Agency and Historic England who all agreed with the Council's conclusions that:

- An SEA will not be necessary to support the SPD as it is unlikely to lead to any significant environmental effects beyond those already assessed through the environmental assessments (SEA/SA) of the High Peak Local Plan.
- An HRA will not be necessary as the SPD would not result in adverse effects on European designated sites, both alone and in combination with other plans.

A summary of responses to the Issues and Options consultation and how these had been taken into account by the Council was also provided.

7.11 A total total of 73 comments were submitted in relation to the SPD (4 from members of the public, 10 from organisations which included a late representation from Network Rail. The main issues raised and changes include:

- Additional clarification relating to the repayment of contributions if these are not spent within the specified timescales.
- Additional eligibility criteria for First Homes which would require a local connection for the first three months of sale.
- Additional clarification in relation to Vacant Building Credit to include a definition and worked example.
- Additional clarification of on site and off site open space provision including that 2023 costs are subject to indexation.
- Reference to the need to update the 2018 Playing Pitch Strategy.
- Additional references to greenways, public transport and sustainable transport modes.
- Reference to the consideration of increased footfall and need for car parking at railway stations.
- Additional reference to include opportunities to benefit the historic environment.
- Several minor miscellaneous amendments requested for clarification purposes.

7.12 No further comments were submitted regarding the SEA or HRA Screening report from either Natural England, Historic England or the Environment Agency. As such it is considered that a SEA or HRA is not required for the SPD.

7.13 A Consultation Statement accompanies this report (Appendix 2). It details each consultation comment and provides an officer response. In light of the feedback, a number of modifications to the SPD are recommended. A schedule of the proposed modifications to the consultation version of the SPD is provided at Appendix 3. Appendix 1 provides a copy of the SPD as proposed for adoption which incorporates the identified modifications.

7.14 At a meeting of the Executive on the 22nd June 2023 it was agreed that Councillors could provide further proposed changes to the document, in consultation with the Planning portfolio holder and the Head of Development Services. The proposed changes related to minor points of clarification which were largely in relation to biodiversity net gain and the climate change sections. These have been reviewed and changes incorporated into the SPD as proposed for adoption. The comments received and responses to them are included within the Consultation Statement (Appendix 2). The changes have also been included in the schedule of modifications at Appendix 3.

Adoption

7.15 If adopted, the SPD, the final Consultation Statement and an 'adoption statement' will be published. Interested parties will be notified of the adoption. Any person with sufficient interest in the decision to adopt the SPD may apply to the High Court for permission to apply for judicial review of that decision within 3 months of the date of adoption.

7.16 The SPD will become a material consideration in the determination of relevant planning applications.

